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David E. McDysan

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EXAMINER

GYORFI, THOMAS A

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ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID E. MCDYSAN

Appeal 2008-005963
Application 10/023,043
Technology Center 2400

Before LANCE LEONARD BARRY, ST. JOHN COURTENAY III, and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

The Patent Examiner rejected claims 1-24. The Appellant appeals therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

INVENTION

The Appellant describes the invention at issue on appeal as follows.

[A] plurality of ingress routers [are] coupled to egress routers for communication utilizing the network-based VPN [i.e., virtual private network] protocol that logically partitions intra-VPN and extra-VPN traffic, such that denial of service attacks on the access link originating from sources outside the VPN are prevented. In other words, traffic in a particular VPN is separated or partitioned based on the source of the traffic, i.e., whether the traffic originated within the VPN (intra-VPN) or outside of the VPN (extra-VPN).

(Appeal Br. 7.)

REPRESENTATIVE CLAIM

1. A network system providing a virtual private network (VPN), said network system comprising:

one or more egress routers having connections to an access network including an access link, wherein said one or more egress routers transmit intra-VPN traffic to a destination host belonging to the VPN from sources within the VPN within a first access network logical connection for intra-VPN traffic and all extra-VPN traffic to the destination host from sources outside the VPN within a second access network logical

connection for extra-VPN traffic, separate from the first access network logical connection; and

a plurality of ingress routers coupled to the one or more egress routers for communication utilizing a network-based VPN protocol that logically partitions intra-VPN and extra-VPN traffic, such that denial of service attacks on said access link originating from sources outside the VPN are prevented.

REJECTIONS

Claims 1, 3-9, 11-16, and 18-22 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,768,271 ("Seid").

Claim 23 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Seid.

Claims 1-24 stand rejected under § 103(a) as unpatentable over the Appellant's admitted prior art and Seid.

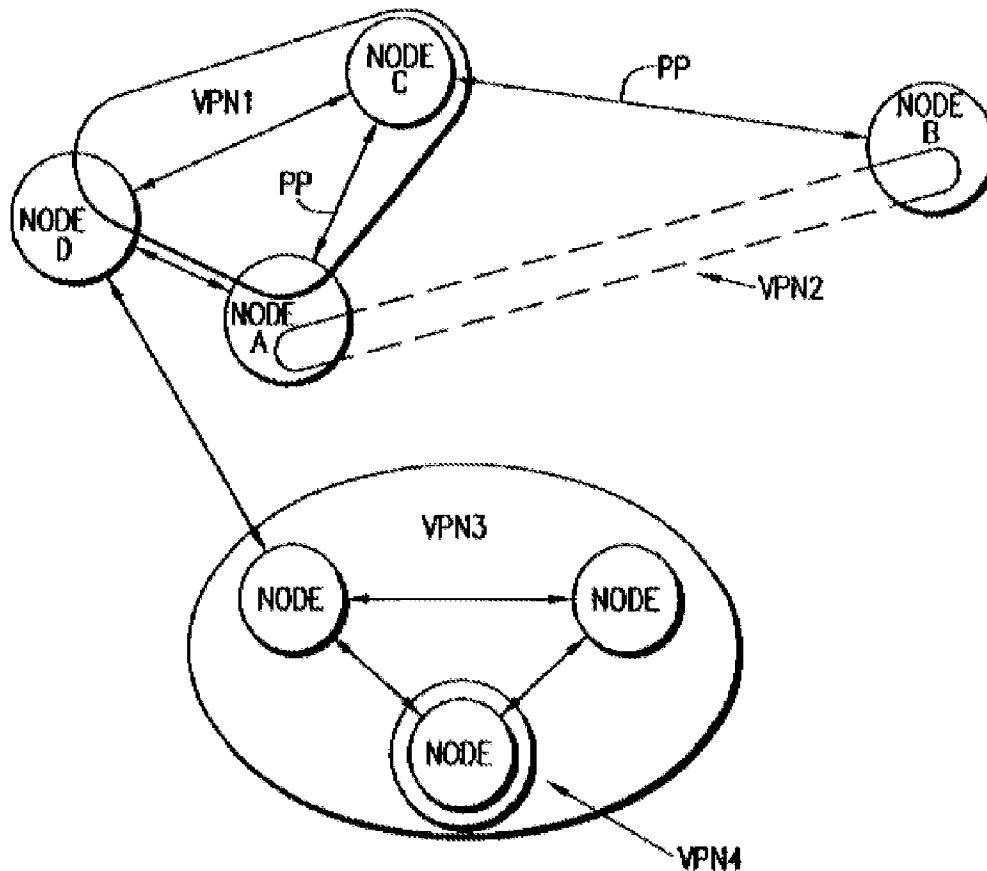
ISSUE

The Appellant stipulates that "all of the appealed claims stand or fall together as a group with exemplary independent claim 1." (Appeal Br. 6.) Therefore, we will decide the appeal of claims 1-24 based on claim 1 alone. The Examiner find that "Seid discloses a network system providing a virtual private network (VPN), said network system comprising: one or more egress routers having connections to an access network including an access link (Figs. 1-3)" (Ans. 3.) The Appellant argues that "Nothing, repeat nothing, is said about segregating, within the same VPN, intra-VPN traffic from extra-VPN traffic." (App. Br. 10.) Therefore, the issue before us is whether the Examiner erred in finding that Seid logically partitions intra-VPN and extra-VPN traffic by transmitting traffic from sources within

the VPN to a destination belonging to the VPN via a first access network logical connection and transmitting traffic from sources outside the VPN to the destination via a second access network logical connection.

FINDINGS OF FACT

Figure 1 of Seid follows.



"FIG. 1 is a schematic block diagram of a frame relay network having a plurality of prior art virtual private networks" (Col. 4, ll. 31-33.)

ANALYSIS

"It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim, and that

anticipation is a fact question" *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) (citing *Lindemann Maschinenfabrik GMBH v. Am. Hoist & Derrick Co.*, 730 F.2d 1452, 1457 (Fed. Cir. 1984)). Here, the network shown in Figure 1 of Seid logically partitions intra-VPN and extra-VPN traffic. More specifically, it transmits traffic from sources within VPN3 (viz., the rightmost and bottommost nodes in VPN3) to a destination belonging to the VPN (viz., the leftmost node in VPN3) via a first access network logical connection (viz., the double-headed arrows connecting the three nodes in VPN3). It also transmits traffic from sources outside the VPN (e.g., NODE D) to the destination (viz., the leftmost node in VPN3) via a second access network logical connection (viz., the double-headed arrow connecting NODE D to the leftmost node in VPN3).

Based on the aforementioned facts and analysis, we conclude that the Examiner did not err in finding that Seid logically partitions intra-VPN and extra-VPN traffic by transmitting traffic from sources within the VPN to a destination belonging to the VPN via a first access network logical connection and transmitting traffic from sources outside the VPN to the destination via a second access network logical connection.

DECISION

We affirm the rejections of claims 1-24.

Appeal 2008-005963
Application 10/023,043

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

rwk

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